

§ 92.212

(b) Notwithstanding § 92.214, a participating jurisdiction may request and HUD may permit, pursuant to a written memorandum of agreement, a participating jurisdiction to invest additional HOME funds in the existing HOME-assisted rental project. The total HOME funding for the project (original investment plus additional investment) must not exceed the per-unit subsidy limit in § 92.250(a). The use of HOME funds may include, but is not limited to, rehabilitation of the HOME units and recapitalization of project reserves for the HOME units (to fund capital costs). If additional HOME funds are invested, HUD may require the period of affordability to be extended, based on such considerations as the amount of additional HOME funds or additional units.

(c) HUD Headquarters may, through written approval, permit the participating jurisdiction to reduce the number of HOME-assisted units, if the project contains more than the minimum number of units required to be designated as HOME-assisted under § 92.205(d). In determining whether to permit a reduction in the number of HOME-assisted units, HUD will take into account the required period of affordability and the amount of HOME assistance provided to the project.

[78 FR 44669, July 24, 2013]

§ 92.212 Pre-award costs.

(a) *General.* Before the effective date of the HOME Investment Partnership Agreement, the participating jurisdiction may incur costs which may be charged to the HOME allocation after the award of the HOME allocation, provided the costs are in compliance with the requirements of this part (including environmental review requirements) and with the statutory and regulatory requirements in effect at the time the costs are charged to the HOME allocation.

(b) *Administrative and planning costs.* Eligible administrative and planning costs may be incurred as of the beginning of the participating jurisdiction's consolidated program year (see 24 CFR 91.10) or the date the consolidated plan describing the HOME allocation to which the costs will be charged is received by HUD, whichever is later.

24 CFR Subtitle A (4–1–16 Edition)

(c) *Project costs.* Eligible project costs may be incurred during the current program year in an amount not to exceed 25% of the current HOME allocation amount, to be charged to the following year's HOME allocation. Before incurring the pre-award costs, the participating jurisdiction must comply with its citizen participation plan requirements addressing 24 CFR 91.105(b)(2), (4), (5) and (g) (local governments) or 24 CFR 91.115(b)(2), (4), (5) and (f) (States). In lieu of a full action plan, the participating jurisdiction may develop a mini-action plan which describes the proposed pre-award projects and costs in accordance with 24 CFR 91.220(c) and includes, if applicable, 24 CFR 91.220(g)(2) (local governments) or 24 CFR 91.320(c) and, if applicable, 24 CFR 91.320(g)(2) (States). The mini-action plan must state that HOME funding for the project(s) is subject to the future availability of HOME funds. The subsequent action plan (i.e., action plan for the HOME allocation to which the costs will be charged) must also include the use of HOME funds contained in the mini-action plan.

(d) *Subrecipient or State recipient costs.* The participating jurisdiction may authorize its subrecipient or State recipient to incur pre-award costs in accordance with the requirements of this section. The authorization must be in writing.

(e) *Other pre-agreement costs.* Pre-agreement costs in excess of the amount set forth in paragraph (c) of this section must be approved, in writing, by the HUD Field Office before the costs are incurred.

§ 92.213 HOME Funds and Public Housing.

(a) *General rule.* HOME funds may not be used for public housing units. HOME-assisted housing units may not receive Operating Fund or Capital Fund assistance under section 9 of the 1937 Act during the HOME period of affordability.

(b) *Exception.* HOME funds may be used for the development of public housing units, if the units are developed under section 24 of the 1937 Act (HOPE VI) and no Capital Fund assistance under section 9(d) of the Act is used for the development of the unit.